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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,271

03/12/2004

Kyung-geun Lee

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EXAMINER

DANG, HUNG Q

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

03/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/798,271

Applicant(s)

LEE ET AL.

Examiner

HUNG Q. DANG

Art Unit

2621

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 02/21/2008 have been fully considered but they are not persuasive.

At pages 2-4, Applicant argues that an "information storage medium" is a statutory subject matter. In response, the Examiner respectfully disagrees because an "information storage medium" can be broadly interpreted as a piece of paper. Contrary to a computer-readable medium, a piece of paper is nonstatutory. Regarding Applicant's arguments that there are patents issued by the USPTO that recite the term "information storage medium", the Examiner have no comments on these issues.

At pages 3-4, Applicant argues the version and revision information recited in "claims 1-11 impart functionality to the recording and/or reproducing device, and therefore are directed to statutory subject matter."

In response, the Examiner respectfully disagrees.

Contrary to a computer-executable program that causes the computer to perform a sequence of positive steps, which is not intended use, the medium recited by the claims 1-11 storing only several pieces of data which indicate "at least one factor ..." and indicate "an update to the at least one factor." However, indicating "at least one factor ..." and "an update to the at least one factor" is an intended use, not a step or a sequence of steps that causes a computer to perform a specific useful task. Thus, they are non-statutory for that reason.

At page 4, Applicant argues the "version information" and "revision information" recited by claims 1-11, for example, are statutory by suggesting an analogy to an exemplary language quoted from a section of Annex IV of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, as follows: "The presence of the claimed nonfunctional descriptive material is not necessarily determinative of nonstatutory subject matter. For example, a computer that recognizes a particular grouping of musical notes read from memory and upon recognizing that particular sequence, causes another defined series of notes to be played, defines a functional interrelationship among that data and the computing processes performed when utilizing that data, and as such is statutory because it implement a statutory process."

In response, the Examiner respectfully submits that the two situations are not analogous. The quoted passage shows an example of statutory subject matters (because it claims a computer, which is statutory), even though nonstatutory subject materials (which is the grouping of musical notes) are present in the claim.

Contrary to the language recited in claim 1, a better analogy to the above-quoted passage would be: "a computer that reads and recognizes version information and revision information, causes a drive to record and reproduce ... [in some way]."

In other words, "a computer that reads and recognizes nonstatutory subject matters to perform a statutory process" is definitely statutory, which is the case described in the quoted passage, contrary to "a medium", which by itself is nonstatutory,

"that stores nonstatutory subject matters," which is the case of the claim language of the current invention.

In conclusion, the 35 USC § 101 rejections of claims 1-11 stand as previously presented.

At pages 5-7, Applicant argues that Maeda does not disclose the revision information updates the "at least one factor associated with data recording and/or reproduction prescribed a manufacture."

In response, the Examiner respectfully disagrees. The cited paragraphs in Maeda disclose various pieces of information that can be interpreted as either version information or revision information depending on various situations. To make the Examiner's point of view clearer, the two examples described in the previous Office Action are repeated. In both examples, the Examiner would like to emphasize the points that (1) a factor is a complete information about an object, (2) a version information indicates the factor in a general way while (2) a revision information indicates an updated, or more detailed information about the object so that the combination of both version and revision information can provide a more complete information about the object.

For example, the "version number" in column 9, lines 27-30 could be "version information" recited in claim 1. In that case, the "revision number" recited in claim 1 could correspond to the information used to note the minimum lead-out rate cited in Maeda, column 9, lines 35-39. Obviously, discs having the same "version number" with different minimum lead-out rates should have different values recorded to note these

changes correspondingly. Consequently, it is safe to say that this information indicates an update to the "at least one factor", which can be represented by the "version number". This information is recorded to note a specific value of minimum rate that could be changed, thus reflecting an update because whenever the information is changed, it is recorded.

In this example, the part version indicates a factor associated with data recording and/or reproduction prescribed a manufacture. However, this number alone does not give any details of the minimum lead-out rate. In other words, for each part version, there is an associated property, the value of which can distinguish between various possible minimum lead-out rates. For this reason, updating the value of the property obviously updates the whole object, which is the factor indicated by the part version.

As another example, we can take the "book type" information in column 9, lines 14-26 as version information which indicates the factor of "type of disc". In this case, the "version number" in Maeda (column 9, lines 27-30) could be interpreted as the revision information, which signifies a part number. Whenever this information is changed, it is recorded. Thus, it indicates an update to the factor of "type disc" described above.

More specifically, from the teachings of Maeda as described, one of ordinary skill in the art would recognize, for the same type of disk, there could be various variants, each of which is further specified by a version number. Again, they have an object-property relationship as described above. The type of disk indicates a factor, which is a general information regarding the disk while each specific value of the part number indicates which sub-type the disk belongs to. Without the part number, complete

information about the disk is impossible. Therefore, any updates on the part number will give updated information about the whole disk.

In conclusion, Maeda obviously discloses the feature of the revision information updates the "at least one factor associated with data recording and/or reproduction prescribed a manufacture."

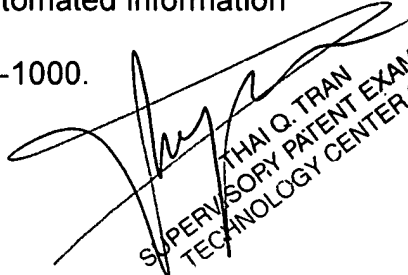
Consequently, the rejections stand as previously presented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. DANG whose telephone number is (571)270-1116. The examiner can normally be reached on M-Th:7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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